

# Exhibit Y

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

CIVIL ACTION  
NO. 21-CV-10835-ADB

TRUIST BANK,  
Plaintiff,

IN ADMIRALTY

v.

F/V QUINBY ALLIE, OFFICIAL  
NUMBER 507438, HER ENGINES,  
TACKLE, FURNISHINGS, EQUIPMENT,  
SUPPLIES, FISHING PERMITS, AND  
OTHER APPURTENANCES, *in rem*,  
Defendant.

**PLAINTIFF'S UNOPPOSED *EMERGENCY* MOTION TO AMEND THE  
ORDER OF SALE (ECF No. 50) TO INCREASE CREDIT BID**

Now comes the Plaintiff, Truist Bank, in the above-entitled action, by and through its undersigned counsel, Clinton & Muzyka, P.C. and Troutman Pepper Hamilton Sanders LLP, and, for the reasons set forth below, respectfully requests that this Honorable Court permit it to increase its credit bid to the amount of ***\$1,088,560.20*** and that the Court amend its Order of Sale (ECF No. 50) to reflect this current amount.

The Plaintiff states as follows in support of this Motion:

**I. PROCEDURAL BACKGROUND**

The original Order of Sale was issued on November 8, 2021 in response to a Motion requesting the Order filed on October 15, 2021 (ECF No. 39). A date for the Vessel's auction by U.S. Marshal was then scheduled for March 22, 2022. The parties attempted resolution of this civil action by Mediation with Magistrate Judge Bowler on March 10, 2022 without success. Plaintiff, in preparation for the March 22, 2022 U.S. Marshal auction of the Vessel now submits this motion to update the amounts owed to Plaintiff from the sale of the *res*.

## II. ARGUMENT

Because Mediation was not successful, Plaintiff must now go forward with the U.S. Marshal auction on March 22, 2022. In preparation for the auction, Plaintiff must seek an increase in the credit bid that was allowed by this Court to properly reflect the increased amount owed on the Promissory Note(s), increased *custodia legis*, and the attorneys fees and costs expended to-date.

### A. The Promissory Notes

The amount owed on the Promissory Notes, as of March 9, 2022, is at the level of **\$927,137.96**. See Affidavit of Daniel T. Stillman, Esq., Exhibit “A” and its attendant spreadsheet of costs. As illustrated in Exhibit A, this amount is comprised of Principal in the amount of \$853,657.85, Interest in the amount of \$68,587.35, and Late Charges in the amount of \$4,892.76.

### B. Custodia Legis

As of February 28, 2022, *custodia legis* is at the level of **\$89,501.11**. Exhibit “A.”

### C. Attorneys Fees and Costs

As of March 9, 2022, attorneys fees and costs are now at the level of **\$71,921.13**. This number is comprised of \$71,827.68 in attorneys fees and \$93.45 in Court and Administrative costs. Exhibit “A.”

***The above figures create a total of \$1,088,560.20.***

## III. CONCLUSION

For the reasons set forth above, and those set forth in Plaintiff’s Memorandum in support of its unopposed Motion for the Sale of the Vessel (ECF No. 40), which is incorporated herein by reference, Truist Bank prays that it be permitted to increase its credit bid to the level of

**\$1,088,560.20** and that the Court properly amend its Order of Sale (ECF No. 50) in accordance with such allowance.

**WHEREFORE**, the Plaintiff, Truist Bank, prays that this Honorable Court allow it to increase its credit bid to the level of **\$1,088,560.20** and that the Court properly amend its Order of Sale (ECF No. 50) in accordance with such allowance.

### **Local Rule 7.1 Certification**

I certify that all counsel of record were made aware of this Motion on March 15, 2022 by email forwarding this Motion and Plaintiff's intent to file it and there were no objections.

/s/ John J. Bromley

John J. Bromley

**Truist Bank,**

By its attorneys,  
**CLINTON & MUZYKA, P.C.**

"/s/Thomas J. Muzyka"

**Thomas J. Muzyka**

**BBO No. 365540**

**John J. Bromley**

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**TROUTMAN PEPPER HAMILTON  
SANDERS, LLP**

“/s/Daniel T. Stillman”

**Daniel T. Stillman**

***Pro Hac Vice***

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Email: [dan.stillman@troutman.com](mailto:dan.stillman@troutman.com)

**CERTIFICATE OF SERVICE**

Pursuant to Local Rule 5.2, I hereby certify that the above document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on March 16, 2022.

“/s/ Thomas J. Muzyka”

Thomas J. Muzyka



1. The following is based upon personal knowledge.
2. The Vessel presently remains under arrest in the Port of New Bedford, Massachusetts and in the custody of the Court-appointed substitute custodian, Michael Collyer of Marine Safety Consultants, Inc.
3. I attest to the accuracy of the attached spreadsheet that reflects the amounts owed to the Plaintiff on the Promissory Notes, as of March 9, 2022, in the total amount of \$927,137.96.
4. I attest to the accuracy of the attached spreadsheet that reflects the amounts owed to the Plaintiff for *custodia legis*, as of March 9, 2022, in the total amount of \$89,501.11.

5. I attest to the accuracy of the attached spreadsheet that reflects the amounts owed to the Plaintiff for attorneys fees and costs, as of February 28, 2022, in the total amount of \$71,921.13.

**SIGNED UNDER THE PENALTIES OF PERJURY THIS 11th DAY OF  
MARCH, 2022.**

*“/s/ Daniel T. Stillman”*  
Daniel T. Stillman



## F/V QUINBY ALLIE

PAYOFF DETAILS (03-09-22)	
<b>Principal</b>	\$853,657.85
<b>Total Interest</b>	\$68,587.35
<b>Late Charges</b>	\$4,892.76
FEES / COSTS (03-09-22)	
<b>Legal / Attorneys' Fees</b>	\$71,827.68 (Feb. 28, 2022)
<b>Court / Admin Costs</b>	\$93.45
<b>Custodia Legis</b>	\$89,501.11
PAYOFF + FEES / COSTS (03-09-22)	
<b>TOTAL</b>	<b>\$1,088,560.20</b>

## BREAKDOWN OF CUSTODIA LEGIS EXPENSES

MARINE SAFETY CONSULTANTS, INC.		
Vessel Custodial Costs/Fees Incurred	Amount	Date(s)
• Monthly Custodial Fees: \$1,500 x10 Months	\$15,000.00	Jun. 2021- Mar. 2022
• Towing Preparation	\$2,802.50	May 2021
• Condition and Value Survey	\$800.00	Jul. 2021
ATLANTIC BROKERAGE HOUSE		
Vessel Custodial Costs/Fees Incurred	Amount	Date(s)
• Permit Appraisal Fee	\$500.00	Jun. 2021
TUCKER-ROY TOW & SALVAGE, INC.		
Vessel Custodial Costs/Fees Incurred	Amount	Date(s)
• Towing services	\$10,306.25	May 2021
INTERNATIONAL SPECIAL RISKS		
Vessel Custodial Costs/Fees Incurred	Amount	Date(s)
• Initial Coverage	\$22,500.00	May 2021
COMPASS INSURANCE		
Vessel Custodial Costs/Fees Incurred	Amount	Date(s)
• Coverage Payment [Q3: \$5,826.96 // Q4: \$5,826.96]	\$11,653.92	Oct. 2021 (Q3) // Jan. 2022 (Q4)
C.P. BRODEUR, INC.		
Vessel Custodial Costs/Fees Incurred	Amount	Date(s)
• Shift Vessel to new berth at request of Custodian	\$85.00	Jun. 2021
SHORELINE RESOURCES, LLC		
Vessel Custodial Costs/Fees Incurred	Amount	Date(s)
• Monthly Fees: \$2,000 x10 Months	\$20,000.00	Jun. 2021-Mar. 2022
EAST COAST FABRICATION		
Vessel Custodial Costs/Fees Incurred	Amount	Date(s)
• Vessel Winterization	\$2,500.00	Dec. 2021
STANDARD MARINE OUTFITTERS		
Vessel Custodial Costs/Fees Incurred	Amount	Date(s)
• Antifreeze/Coolant for Vessel Winterization	\$332.63	Nov. 2021
FUEL MAN LLC		
Vessel Custodial Costs/Fees Incurred	Amount	Date(s)
• Additional Antifreeze for QUINBY ALLIE	\$20.81	Dec. 2021
U.S. MARSHALS SERVICE		
Vessel Custodial Costs/Fees Incurred	Amount	Date(s)
• Additional Advertising Expenses	\$3,000.00	Feb. 2022
<b>CUSTODIAL LEGIS EXPENSES TO-DATE</b>	<b>\$89,501.11</b>	<b>Mar. 9, 2022</b>

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

CIVIL ACTION  
NO. 21-CV-10841-ADB

TRUIST BANK,  
Plaintiff,

IN ADMIRALTY

v.

F/V BELLA SKY, OFFICIAL  
NUMBER 580932, HER ENGINES,  
TACKLE, FURNISHINGS, EQUIPMENT,  
SUPPLIES, FISHING PERMITS, AND  
OTHER APPURTENANCES, *in rem*,  
Defendant.

**PLAINTIFF'S UNOPPOSED *EMERGENCY* MOTION TO AMEND THE  
ORDER OF SALE (ECF No. 52) TO INCREASE CREDIT BID**

Now comes the Plaintiff, Truist Bank, in the above-entitled action, by and through its undersigned counsel, Clinton & Muzyka, P.C. and Troutman Pepper Hamilton Sanders LLP, and, for the reasons set forth below, respectfully requests that this Honorable Court permit it to increase its credit bid to the amount of **\$471,343.52** and that the Court amend its Order of Sale (ECF No. 52) to reflect this current amount.

The Plaintiff states as follows in support of this Motion:

**I. PROCEDURAL BACKGROUND**

The original Order of Sale was issued on November 8, 2021 in response to a Motion requesting the Order filed on October 15, 2021 (ECF No. 41). A date for the Vessel's auction by U.S. Marshal was then scheduled for March 22, 2022. The parties attempted resolution of this civil action by Mediation with Magistrate Judge Bowler on March 10, 2022 without success. Plaintiff, in preparation for the March 22, 2022 U.S. Marshal auction of the Vessel now submits this motion to update the amounts owed to Plaintiff from the sale of the *res*.

## II. ARGUMENT

Because Mediation was not successful, Plaintiff must now go forward with the U.S. Marshal auction on March 22, 2022. In preparation for the auction, Plaintiff must seek an increase in the credit bid that was allowed by this Court to properly reflect the increased amount owed on the Promissory Note(s), increased *custodia legis*, and the attorneys fees and costs expended to-date.

### A. The Promissory Notes

The amount owed on the Promissory Notes, as of March 9, 2022, is at the level of **\$352,919.76**. *See* Affidavit of Daniel T. Stillman, Esq., Exhibit “A” and its attendant spreadsheet of costs. As illustrated in Exhibit A, this amount is comprised of Principal in the amount of \$325,732.78, Interest in the amount of \$24,378.00, and Late Charges in the amount of \$2,808.98.

### B. Custodia Legis

As of February 28, 2022, *custodia legis* is at the level of **\$46,502.63**. Exhibit “A.”

### C. Attorneys Fees and Costs

As of March 9, 2022, attorneys fees and costs are now at the level of **\$71,921.13**. This number is comprised of \$71,827.68 in attorneys fees and \$93.45 in Court and Administrative costs. Exhibit “A.”

***The above figures create a total of \$471,343.52.***

## III. CONCLUSION

For the reasons set forth above, and those set forth in Plaintiff’s Memorandum in support of its unopposed Motion for the Sale of the Vessel (ECF No. 42), which is incorporated herein by reference, Truist Bank prays that it be permitted to increase its credit bid to the level of **\$471,343.52**

and that the Court properly amend its Order of Sale (ECF No. 52) in accordance with such allowance.

**WHEREFORE**, the Plaintiff, Truist Bank, prays that this Honorable Court allow it to increase its credit bid to the level of **\$471,343.52** and that the Court properly amend its Order of Sale (ECF No. 52) in accordance with such allowance.

**Local Rule 7.1 Certification**

I certify that all counsel of record were made aware of this Motion on March 15, 2022 by email forwarding this Motion and Plaintiff's intent to file it and there were no objections.

/s/ John J. Bromley

John J. Bromley

**Truist Bank,**

By its attorneys,

**CLINTON & MUZYKA, P.C.**

"/s/Thomas J. Muzyka"

**Thomas J. Muzyka**

**BBO No. 365540**

**John J. Bromley**

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**TROUTMAN PEPPER HAMILTON  
SANDERS, LLP**

“/s/Daniel T. Stillman”

**Daniel T. Stillman**

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**CERTIFICATE OF SERVICE**

Pursuant to Local Rule 5.2, I hereby certify that the above document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on March 16, 2022.

“/s/ Thomas J. Muzyka”

Thomas J. Muzyka

# EXHIBIT “A”

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

**CIVIL ACTION  
NO. 21-CV-10841-ADB**

**TRUIST BANK,  
Plaintiff,**

**IN ADMIRALTY**

**v.**

**F/V BELLA SKY, OFFICIAL  
NUMBER 580932, HER ENGINES,  
TACKLE, FURNISHINGS, EQUIPMENT,  
SUPPLIES, FISHING PERMITS, AND  
OTHER APPURTENANCES, *in rem*,  
Defendant.**

**AFFIDAVIT OF DANIEL T. STILLMAN, ESQ.**

I am a member of the firm of Troutman Pepper Hamilton Sanders, LLP, attorneys for the Plaintiff, Truist Bank. I submit this Affidavit in support of Plaintiff's Unopposed Emergency Motion to Amend the Order of Sale to reflect an increase in the credit bid.

1. The following is based upon personal knowledge.
2. The Vessel presently remains under arrest in the Port of New Bedford, Massachusetts and in the custody of the Court-appointed substitute custodian, Michael Collyer of Marine Safety Consultants, Inc.
3. I attest to the accuracy of the attached spreadsheet that reflects the amounts owed to the Plaintiff on the Promissory Notes, as of March 9, 2022, in the total amount of \$352,919.76.
4. I attest to the accuracy of the attached spreadsheet that reflects the amounts owed to the Plaintiff for *custodia legis*, as of March 9, 2022, in the total amount of \$46,502.63.

5. I attest to the accuracy of the attached spreadsheet that reflects the amounts owed to the Plaintiff for attorneys fees and costs, as of February 28, 2022, in the total amount of \$71,921.13.

**SIGNED UNDER THE PENALTIES OF PERJURY THIS 11th DAY OF  
MARCH, 2022.**

*“/s/ Daniel T. Stillman”*  
Daniel T. Stillman



## P/V BELLA SKY

PAYOFF DETAILS (03-09-22)	
<b>Principal</b>	\$325,732.78
<b>Total Interest</b>	\$24,378.00
<b>Late Charges</b>	\$2,808.98
FEES / COSTS (03-09-22)	
<b>Attorneys' Fees</b>	\$71,827.68 (Feb. 28, 2022)
<b>Court / Admin Costs</b>	\$93.45
<b>Custodia Legis</b>	\$46,502.63
PAYOFF + FEES / COSTS (03-09-22)	
<b>TOTAL</b>	<b>\$471,343.52</b>

## BREAKDOWN OF CUSTODIA LEGIS EXPENSES

MARINE SAFETY CONSULTANTS, INC.		
Vessel Custodial Costs/Fees Incurred	Amount	Date(s)
• <i>Monthly Custodial Fees: \$1,500 x10 Months</i>	\$15,000.00	Jun. 2021- Mar. 2022
• <i>Condition and Value Survey</i>	\$500.00	Jul. 2021
ATLANTIC BROKERAGE HOUSE		
Vessel Custodial Costs/Fees Incurred	Amount	Date(s)
• <i>Permit Appraisal Fee</i>	\$500.00	Jun. 2021
COMPASS INSURANCE		
Vessel Custodial Costs/Fees Incurred	Amount	Date(s)
• <i>Coverage Payment [Q3: \$2,292.50 // Q4: \$2,292.50]</i>	\$4,585.00	Oct. 2021 (Q3) // Jan. 2022 (Q4)
C.P. BRODEUR, INC.		
Vessel Custodial Costs/Fees Incurred	Amount	Date(s)
• <i>Shift Vessel to new berth at request of Custodian</i>	\$85.00	Jun. 2021
SHORELINE RESOURCES, LLC		
Vessel Custodial Costs/Fees Incurred	Amount	Date(s)
• <i>Monthly Fees: \$2,000 x 10 Months</i>	\$20,000.00	Jun. 2021- Mar. 2022
EAST COAST FABRICATION		
Vessel Custodial Costs/Fees Incurred	Amount	Date(s)
• <i>Vessel Winterization</i>	\$2,500.00	Dec. 2021
STANDARD MARINE OUTFITTERS		
Vessel Custodial Costs/Fees Incurred	Amount	Date(s)
• <i>Antifreeze/Coolant for Vessel Winterization</i>	\$332.63	Nov. 2021
U.S. MARSHALS SERVICE		
Vessel Custodial Costs/Fees Incurred	Amount	Date(s)
• <i>Additional Advertising Expenses</i>	\$3,000.00	Feb. 2022
<b>CUSTODIAL LEGIS EXPENSES TO-DATE</b>	<b>\$46,502.63</b>	<b>Mar. 9, 2022</b>